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3 **UNITED STATES DISTRICT COURT**  
4 **NORTHERN DISTRICT OF CALIFORNIA**  
5 **SAN JOSE DIVISION**  
6

7 ROBERT HEATH, ET AL.,

8 Plaintiffs,

9 v.

10 GOOGLE LLC,

11 Defendant.

Case No. [15-cv-01824-BLF](#)

**ORDER DENYING PLAINTIFFS’  
ADMINISTRATIVE MOTION TO  
EXTEND DEADLINE TO FILE  
MOTIONS TO COMPEL; LIFTING  
STAY OF DEADLINE**

12  
13 On September 25, 2018, Plaintiffs administratively moved to extend the deadline to file  
14 motions to compel from September 28, 2018 to October 5, 2018. Mot. at 1, ECF 379. Plaintiffs  
15 argued that Defendant had refused to meet and confer sufficiently in advance of the September 28  
16 deadline to allow them adequate time to draft their motions to compel. *See generally id.* Because  
17 Defendant’s opposition was not due until October 1, 2018, the Court stayed the deadline to file  
18 motions to compel until after it decided the present motion. *See* ECF 383. In response, Defendant  
19 argued that Plaintiffs’ predicament was self-inflicted because Plaintiffs waited until the final day  
20 possible to serve written discovery on Defendant, thus creating the shortest possible window in  
21 which to meet and confer and draft motions to compel—7 days. *See generally* Opp., ECF 387.  
22 Because Defendant’s lead counsel was in trial but was required to attend the meet and confer  
23 under Judge DeMarchi’s Standing Order, Defendant could not meet and confer sufficiently in  
24 advance of the deadline to satisfy Plaintiffs. *Id.* Defendant argues that Plaintiffs’ service of  
25 discovery requests on the last possible day demonstrates a lack of diligence that does not warrant  
26 extension of the deadline. *Id.* at 3–5.

27 Modification of a scheduling order requires a showing of good cause, Fed. R. Civ. P.  
28 16(b), and good cause requires a showing of due diligence. *See Johnson v. Mammoth Recreations,*

1 *Inc.*, 975 F.2d 604, 609 (9th Cir. 1992); *Thomason v. City of Fowler*, No. 1:13-CV-00336-AWI,  
2 2014 WL 4436385, at \*6 (E.D. Cal. Sept. 9, 2014). The Court agrees with Google that Plaintiffs  
3 have not demonstrated good cause for extending the motion to compel deadline, given that their  
4 service of discovery requests on the final possible day forced them to request a meet and confer  
5 with Google before Google had even had a chance to serve its responses. *See* Opp. at 1–2. As  
6 such, Plaintiff’s motion is DENIED and the stay of the deadline is LIFTED. The Court granted  
7 the stay on September 26, 2018, two days before the September 28 deadline. As such, any  
8 motions to compel in this case are due **on or before October 5, 2018**, two days from the issuance  
9 of this order.

10 **IT IS SO ORDERED.**

11  
12 Dated: October 3, 2018



BETH LABSON FREEMAN  
United States District Judge